

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MICHAEL RENE GARRETT,

Petitioner,

v.

Case No. 1:20-cv-11137
Hon. Thomas L. Ludington

NOAH NAGY,

Respondent.

**ORDER DENYING MOTION FOR RECONSIDERATION AND
MOTION FOR RIGHT TO ACCESS**

On April 13, 2020, Petitioner filed a petition for writ of habeas corpus. ECF No. 1. On June 12, 2020, the Court transferred the petition to the Sixth Circuit because it was deemed a successive habeas petition. *See* ECF No. 19; 28 U.S.C. § 1631; *Sims v. Terbush*, 111 F.3d 45, 47 (6th Cir. 1997). Petitioner subsequently filed a motion for reconsideration of the Court’s order, arguing that he may proceed in this Court under Federal Rule of Civil Procedure 60(b). ECF No. 21.

In *Gonzalez v. Crosby*, 545 U.S. 524, 532 (2005), the Supreme Court found that “[w]here a Rule 60(b) motion presents a ‘claim,’ such as an attack on an earlier decision on the merits or a claim presented for the first time in the Rule 60(b) motion, it is properly considered a second or successive habeas motion.” That is, new claims that challenge the underlying conviction or sentence or “the substance of the federal court’s resolution of a [prior habeas] claim on the merits” are not appropriately brought under Rule 60(b). *Gonzalez*, 545 U.S. at 532. Petitioner’s pleadings assert new claims attacking his state court conviction. He raises allegations of actual innocence, undisclosed evidence, and ineffective assistance of counsel. *See e.g.*, ECF Nos. 1, 6. Petitioner’s

pleadings were properly characterized as a successive bid for federal habeas relief and are subject to the provisions of 28 U.S.C. § 2244(b). The motion for reconsideration will be denied.

Petitioner also filed a motion complaining that he is not being given adequate time in the prison law library. As the Court lacks jurisdiction over Petitioner's successive habeas petition absent an order of authorization by the Sixth Circuit, the motion will be denied.

Accordingly, it is **ORDERED** that Petitioner's Motion for Reconsideration, ECF No. 21, is **DENIED**.

It is further **ORDERED** that Petitioner's Motion for Right to Access, ECF No. 20, is **DENIED**.

Dated: July 15, 2020

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon **Michael Rene Garrett** #580170, LAKELAND CORRECTIONAL FACILITY, 141 FIRST STREET, COLDWATER, MI 49036 first class U.S. mail on July 15, 2020.

s/Kelly Winslow
KELLY WINSLOW, Case Manager